

Board of Adjustment

Minutes



**Mesa City Plaza, Room 170
July 8, 2008**

Board members Present:

Mike Clement, Chair
Dianne von Borstel, Vice Chair
Garret McCray
Linda Sullivan
Terry Worcester
Scott Thomas

Board members Absent:

Greg Hitchens (excused)

Staff Present:

Gordon Sheffield
Jeff McVay
Brandice Elliott
Kelly Arredondo

Liz Gaston
Jeffrey Guyette
Troy Myers

Others Present:

Marty Flood
Elizabeth Ohep
Douglas Gardener
James Carpentier
Alex Cabrera
Jim Thompson

The study session began at 4:36 p.m. The Public Hearing meeting began at 5:45 p.m. Before adjournment at 7:43 p.m., the following items were considered and recorded on Board of Adjustment CD #7.

Study Session 4:30 p.m.

- A. The study session began at 4:35 p.m. The items scheduled for the Board's Public Hearing were discussed.
- B. Zoning Administrator update – The Zoning Administrator discussed some recent changes to the Code as they relate to payday loan stores, Group Homes for the Handicapped, and Supervised Living Facilities. An update was provided concerning the Mesa Proving Grounds PC District as well as the Zoning Code. The Zoning Administrator also discussed the process for appealing Town Center cases.

Public Hearing 5:47 p.m.

- A. Consider Minutes from the June 10, 2008 Meeting A motion was made to approve the minutes by Boardmember von Borstel and seconded by Boardmember Sullivan. Vote: Passed 5-0
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember McCray and seconded by Boardmember Worcester. Vote: Passed 5-0

**Board of Adjustment Meeting
July 8, 2008**

Case No.: BA08-022

Location: 1020 East Southern Avenue

Subject: Requesting a Special Use Permit (SUP) to allow the development of a comprehensive sign plan in the C-2 zoning district.

Decision: Approved with conditions.

Summary: Liz Gaston and Marty Flood presented the request for a Special Use Permit, noting their agreement with the staff recommendation, with the exception of conditions six and seven as they relate to modifier signs. They discussed the theme of the center, the Spanish architecture, and the artistic nature of the signs. Mr. Flood further discussed the materials of the signs as well as their unique design.

Mr. McVay presented a staff report, noting that the proposed modifiers advertise a message that is visible from off-site. Further, 240-360 square feet of attached sign area is typical for developments of this size.

Boardmembers McCray and Sullivan both felt that the removal of some signs may be necessary to reduce overall sign area.

Boardmember Clement stated that too many signs would clutter the façade. In addition, he indicated that people generally know what services and products are offered at destination centers, so additional signs are not necessary.

Mr. Sheffield offered a compromise that consisted of the removal of four signs, and a condition that would ensure that the quality of the signs remain as presented in the proposed comprehensive sign plan and could not be replaced with a standard sign or other sign that lowers its artistic quality.

Boardmember Worcester noted that the signs are very complimentary to the development, but a compromise should be made to eliminate some of the signs.

Motion: It was moved by Boardmember Worcester, seconded by Boardmember McCray to approve case BA08-022 with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *No detached sign shall have a sign height greater than twelve feet (12') or sign area greater than eighty (80) square feet.*
3. *For all tenants, maximum aggregate attached sign area shall be based on the linear building frontage of the longest single building elevation that faces a public street.*
4. *The Anchor Tenant (La Curacao) shall be permitted a total of three (3) attached signage with a maximum attached sign area of three hundred and forty-five (345) square feet.*
5. *The attached Corn God sign for the Anchor Tenant (La Curacao) shall have a maximum sign area of one hundred and fifty (150) square feet, which is considered a portion of the aggregate sign area.*

**Board of Adjustment Meeting
July 8, 2008**

6. *The Major Tenant (Pro's Ranch Market) shall be permitted a total of seven (7) attached signs with a maximum aggregate attached sign area of three hundred and seventy-eight (378) square feet.*
7. *Endcap and corner Inline Tenants and Pad Tenants shall be allowed no more than three (3) attached sign with an aggregate sign area equivalent to current Code maximums.*
8. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

Vote: Passed 5-0

Findings:

- 1.1 The Zoning Code would allow an aggregate total of 61.5 feet in height and 615 square feet in sign area for detached signs along Southern Avenue, an aggregate total of 29.5 feet in height and 295 square feet in sign area for detached signs along Stapley Drive, and an aggregate total of 29.5 feet in height and 295 square feet in sign area for detached signs along Solomon.
- 1.2 The Comprehensive Sign Plan allows an aggregate total of 34.33 feet in height and 193 square feet in sign area between four detached signs along Southern Avenue and 22.67 feet in height and 145 square feet in sign area between two detached signs along Stapley Drive. No detached signs will be located along Solomon. No detached sign will exceed 12 feet in height or 80 square feet in sign area.
- 1.3 The CSP allows three attached signs with an aggregate sign area of 344 for the Anchor Tenant (La Curacao). The CSP allows 18 attached signs with an aggregate sign area of 525 square feet for the Major Tenant (Pro's Ranch Market). Current Code would allow a maximum of three attached signs with an aggregate sign area of 160 square feet for both tenants.
- 1.4 The Anchor Tenant has a prominent entry feature with a large area for signage. The proposed signage is consistent with the scale and architecture of the building and is consistent with the Design Review Board approved building elevations (DR07-75). A condition of approval limits the Anchor Tenant (La Curacao) to three attached signs with an aggregate sign area of 345 square feet and limits the size of the "Corn God" element to 150 square feet.
- 1.5 The Major Tenant is permitted 7 attached signs with an aggregate sign area of 378 square feet. The primary entrance sign is compatible with the scale of the building and the secondary entrance signs blend well with the building's architecture. While the proposed height and illumination, as well as the proximity to Southern Avenue and limited intervening building would make the 7 modifier signs visible from off-site, they are not intended as advertising messages. Given that the signs are 21 square feet in area each, off-site visibility will remain low, and they will provide direction to on-site traffic.
- 1.6 The use of painted and wooden signs has been proposed for the Major Tenant. Consistent with Code requirements, painted signs must be limited to painted architectural elements such as tile and wood signs that would then be attached to the building. No signage shall be painted directly on the building.

**Board of Adjustment Meeting
July 8, 2008**

- 1.7** As approved, the aggregate attached sign area for the Anchor Tenant and Major Tenants would be decreased from the CSP proposal. The aggregate sign area for both tenants would still exceed current Code maximums. The approved CSP, including conditions of approval, has been justified by the scale of the buildings, the integration of unique signage with building architecture, and aggregate sign area and height for detached signs less than could be allowed by Code. The CSP provides a flexible sign criteria that promotes improved design through architectural integration.

**Board of Adjustment Meeting
July 8, 2008**

Case No.: BA08-036

Location: 1438 South Power Road

Subject: Requesting modification of a Special Use Permit (SUP) for a comprehensive sign plan in conjunction with the Superstition Springs Center development in the C-2 and C-2-BIZ zoning districts.

Decision: Approval with conditions.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember McCray, seconded by Boardmember Worcester to approve case BA08-036 with the following conditions:

1. *Compliance with sign plan submitted, except as modified by the conditions listed below.*
2. *The existing Toys-R-Us detached sign shall be removed upon completion and final inspection of Sign A.*
3. *Compliance with all requirements of the Building Safety Division in the issuance of sign permits.*

Vote: Passed 5-0

Findings:

- 1.1 The approved Special Use Permit (SUP) modified the approved Comprehensive Sign Plan (CSP) for the Superstition Springs Center development, as it relates to the detached signs for pad tenants along Power Road. The modification allows for the replacement of an existing monument sign for the Toys-R-Us and the replacement of an existing multi-tenant sign for McDonalds, Denny's, and Best Western.
- 1.2 The existing CSP was approved through case BA90-013 and has been modified several times. The original approval included a condition that pad sites surrounding the mall along Southern Avenue and Power Road would be allowed a six foot tall, 24 square-foot detached sign adjacent to the public right-of-way only if the site has an individual driveway. All pad tenants were allowed monument signs along the mall ring-road.
- 1.3 Two pad tenant monument signs (Toys-R-Us and multi-tenant McDonalds, Denny's, and Best Western) are consistent with the approved CSP exist along Power Road. The approved modification allows the replacement of these signs with a 10-foot high, 40 square-foot multi-tenant sign. Both signs will be of the same design, which is consistent with the existing Superstition Springs Center ID signs.
- 1.4 The southern of the two signs will replace the existing Toys-R-Us sign, which is not consistent with the Design Guidelines for detached signs, and will provide identification for several tenants. The northern sign will provide tenant space for the existing McDonalds, Denny's, and Best Western. The sign will replace the existing sign, which has poor visibility for traffic travelling south on Power Road.

**Board of Adjustment Meeting
July 8, 2008**

- 1.5** Given the significant improvement to, and coordination of, the sign design when compared to the existing signs, the improved visibility, and the approval of Westcor, a four-foot increase in the allowed sign height and 16 square-foot increase in allowed sign area is consistent with the intent of the approved CSP.

**Board of Adjustment Meeting
July 8, 2008**

Case No.: BA08-037

Location: 1245 West Main Street

Subject: Requesting: 1) a Special Use Permit to allow an automobile service station; 2) a Substantial Conformance Improvement Permit; and 3) a Special Use Permit for modification of a Comprehensive Sign Plan all associated with the expansion of a commercial center in the C-2 zoning district.

Decision: Denied

Summary:

Jeffrey Guyette and Elizabeth Ohep presented the request for a fuel center, noting the need to encourage activity in a declining center. The primary objective of the proposed fuel center is to attract additional customers to the site. Fry's recently invested in the development by making façade improvements. In addition, while there are already two automobile-oriented uses at the intersection of Main Street and Alma School, there are plans to redevelop existing tire centers, which would leave only one automobile-oriented use.

Boardmember McCray asked Mr. Guyette to address the issue of auto-oriented uses as they relate to the General Plan Policy. He responded that while there are currently three auto-oriented uses at the intersection of Alma School Road and Main Street, there are plans to redevelop the tire centers.

Ms. Elliott provided a staff report for the request, noting that while the request for a Substantial Conformance Improvement Permit and Special Use Permit for a comprehensive sign plan could be supported, existing Council policies do not support the request for a Special Use Permit for an additional auto-oriented use. In addition to the Mesa 2025 General Plan policies related to auto-oriented uses, the West Main Street Area Plan does not support auto-oriented uses within the Light Rail corridor.

There was additional discussion concerning the purpose and intent of the West Main Street Area Plan.

Some consideration was given to the impact of Council policies on development versus declarations in private. Mr. Sheffield clarified that restrictions on properties are a private agreement, and not an obligation of the Board. However, the Board was obligated to uphold Council policies. He further emphasized that the Light Rail corridor is a community-sponsored investment, and that investment should not be minimized.

Boardmember Clement felt that the proposed use of a fuel station would be an interim use, and that redevelopment could be a significant distance into the future. He requested clarification concerning the status of the property and its declarations. Mr. Guyette responded that the parcel is currently under contract and is restricted for fuel at this time.

**Board of Adjustment Meeting
July 8, 2008**

Boardmember Worcester felt that the construction of the Light Rail means that it is time to move toward pedestrian oriented development, and that the relatively short length of the Light Rail in Mesa provides a smaller opportunity zone. Therefore, the fueling station would be an inappropriate use, and it is important to honor Council's intent of the West Main Street Area Plan.

Boardmember von Borstel indicated that the arguments both for and against the proposed fueling station are compelling.

Boardmember Sullivan felt that it is important to support Council's long term vision for the area.

Boardmember Thomas thought there was a need to support Council, but was not confident of the long-term approach, especially when the City would be losing sales tax in the short-term.

Motion: It was moved by Boardmember Thomas, seconded by Boardmember von Borstel to deny case BA08-037.

Vote: Passed 5-0

Findings:

- 1.1 The proposed development would be oriented toward Main Street in an area that falls within the West Main Street Area Plan planning area. The fueling station would be located in the Transit-Oriented Development (TOD) Corridor Area, which is generally the area within 1,320-feet of the future light rail line and high capacity transit station areas. Development in this area is intended to be conducive to pedestrian-oriented development, and auto-oriented uses are discouraged..
- 1.2 Light rail is currently under construction, and the nearest stop is located at Main Street and Sycamore. This stop is located just over one-half mile from the stop currently under construction. However, the West Main Street Area Plan identifies a future stop near the intersection of Alma School Road and Main Street, which puts this particular site within closer proximity to the light rail and makes it better suited for pedestrian-oriented development.
- 1.3 The Mesa 2025 General Plan provides policy concerning auto-oriented uses, limiting auto-oriented commercial uses to a maximum of two corners of an arterial street intersection (Policy LU-4.1c). The intersection of Main Street and Alma School Road consists of three auto-oriented uses, including a Circle K on the southeast corner, and two tire shops at the northeast corner. An additional auto-oriented use would not be consistent with the General Plan.
- 1.4 The General Plan includes a policy that encourages development along transit routes that relate to the transit line and pedestrians (Policy LU_1.3d). The proposed fueling facility would not facilitate pedestrian activity, as the increased flow of traffic to and from the site would impair pedestrian pathways, and the kiosk would do little to generate pedestrian activity.
- 1.5 The proposed fueling facility is not compatible with either the General Plan or the West Main Street Area Plan. As such, the proposed use is not compatible with City policies concerning the development of properties within identified transit corridors. The fueling station would be a detriment to surrounding properties as it would negatively impact redevelopment efforts in the area and inhibit the potential for new development opportunities that would benefit from and be supportive of proximity to the light rail.

**Board of Adjustment Meeting
July 8, 2008**

- 1.6** The proposed automobile service facility would be located in an existing group commercial development that does not comply with current Code requirements in regards to landscape and building setbacks, parking lot landscape islands, and foundation base. The entire development could not be brought into compliance with current Code without creating additional nonconformities related to parking spaces, or without the demolition of existing buildings. As a result, the development does qualify for a Substantial Conformance Improvement Permit (SCIP).
- 1.7** While the request for a SCIP could be supported, it cannot be along considered separate from the request for a Special Use Permit for an automobile-oriented use along West Main Street. As a result, it is not possible to approve the SCIP because of the denial of the accompanying the Special Use Permit for a fueling facility.

**Board of Adjustment Meeting
July 8, 2008**

Case No.: BA08-038

Location: 5711 South Power Road

Subject: Requesting a Special Use Permit (SUP) for a commercial communication tower that exceeds the maximum height permitted in the C-2 zoning district.

Decision: Approval with conditions.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember McCray, seconded by Boardmember Worcester to approve case BA08-038 with the following conditions:

- 1. Compliance with the site plan submitted except as modified by the following conditions below:*
- 2. The commercial communication tower shall have a maximum height of sixty-five feet (65'), which includes the antennas.*
- 3. The twelve-foot (12') wide wrought iron gate on the west elevation of the screen wall shall include slats to screen the equipment within the enclosure.*
- 4. Antennas shall have a maximum dimension of six feet in length, sixteen inches in width, and four inches in depth (6' L x 16" W x 4" D).*
- 5. The screen wall shall include a stucco finish and shall be painted a color compatible with surrounding development.*
- 6. The temporary, cell-on-wheels (COW) shall be removed within ten (10) days of completion of the permanent communication tower.*
- 7. No additional carriers shall be permitted on the commercial communication tower.*
- 8. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 5-0

Findings:

- 1.1** The proposed 68-foot high Commercial Communication Tower (CCT) will be located in the southeast corner of a property partially developed for retail use (Cole's Cowboy Supply). The subject property is zoned C-2 and is located between Power Road and the RWCD Canal.
- 1.2** The CCT and associated ground mounted equipment will be located within a 20' by 20' lease area. The lease area will be surrounded by an eight-foot tall masonry screen wall. The monopalm will consist of a three sector array, with two antennas per sector at a 65-foot radiation (RAD) center. Antennas will have a maximum size of 6' L x 16" W x 4" D and will be attached to the pole utilizing a three-foot wide T-arm with a maximum stand-off from the pole of 18 inches. The palm fronds will be based on a date palm, the bark will consist of a cladding, and all antennas and appurtenances will be painted to match the palm fronds.
- 1.3** The tower is in close proximity to Power Road (approx. 50') and located so vehicles traveling north on Power Road will have a direct line of site. The Communication Tower Guidelines recommend a setback from Power Road equal to the height of the CCT, or 68 feet. A solution includes the relocation of the CCT to the northeast corner of the property, exceeding the

**Board of Adjustment Meeting
July 8, 2008**

recommended setback from Power Road (approx. 100') and at a point where the alignment again follows the grid.

- 1.4** Conditions of approval address concerns with the screening of the ground-mounted equipment, the finishing of the screen wall, the overall height of the CCT, and the size of the antennas. The conditions will help mitigate the visual impact of ground-mounted equipment, lower the height of the tower consistent with current standards, and ensure antennas are not too large to be effectively camouflaged.
- 1.5** The CCT is an allowed use in C-2 Zoning District subject to granting of a Special Use Permit. The location of the proposed CCT exceeds the Commercial Communication Tower Guidelines recommended setback from residential uses, but does not meet the minimum setback from adjacent right-of-ways. A faux Palm Tree design will be effective in camouflaging the CCT, but limits the co-location of additional wireless carriers. Given the distance from residential uses (1,400'), the context of the site, and the use of a stealth design, the proposed CCT would be compatible with and not detrimental to surrounding properties.

**Board of Adjustment Meeting
July 8, 2008**

Case No.: BA08-039

Location: 308 South Alma School Road

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) and a Special Use Permit (SUP) to allow placement of an impound lot in the M-1 zoning district.

Decision: Continued to the August 12, 2008 hearing.

Summary: Troy Myers presented the request for a Substantial Conformance Improvement Permit (SCIP) and a Special Use Permit, questioning why a continuance was recommended.

Mr. McVay briefly explained the request and indicated that while the request for a Special Use Permit was supported, the request for a SCIP was not, as there are more opportunities to improve the property to achieve greater compliance with current Code.

There was some discussion among Boardmembers concerning additional improvements that could be made to the property. It was determined that additional communication between the applicant and staff was necessary, and a continuance was supported.

Motion: It was moved by Boardmember McCray, seconded by Boardmember Worcester to continue case BA08-039 for 30 days to the August 12, 2008 hearing.

Vote: Passed 5-0

Findings: N/A

**Board of Adjustment Meeting
July 8, 2008**

Case No.: BA08-040

Location: 1960 East McKellips Road

Subject: Requesting a Development Incentive Permit (DIP) to allow development of a drive-thru restaurant in the C-2 zoning district.

Decision: Continued to the August 12, 2008 hearing.

Summary: Jim Thompson presented the request for a Development Incentive Permit, noting that the proposed development would be complimentary to adjacent uses.

Mr. McVay stated that a continuance was recommended to allow time for the applicant to negotiate a cross-access easement agreement. The cross-access easement agreement is essential to the development, as it cannot be accommodated if additional driveways are necessary.

Mr. Thompson confirmed that cross-access will be achieved. He further indicated that he was not opposed to a continuance.

Motion: It was moved by Boardmember McCray seconded by Boardmember Thomas to continue case BA08-040 for 30 days to the August 12, 2008 hearing.

Vote: Passed 5-0

Findings: N/A

**Board of Adjustment Meeting
July 8, 2008**

Case No.: BA08-041

Location: 1940 East Main Street

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) and Special Use Permit (SUP) to allow the addition of outdoor activities or entertainment accessory to an existing reception center in the C-3 zoning district.

Decision: Approval with conditions.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember McCray seconded by Boardmember Worcester to approve case BA08-034 with the following conditions:

1. *Compliance with the site plan and landscape plan submitted, except as modified by the conditions below.*
2. *The outdoor garden area shall not be in use after 9:00 pm, Monday through Thursday, and after 10:00 pm Fridays and Saturdays.*
3. *A minimum of three-inch (3") thick decomposed granite shall be provided on the remainder of the vacant site.*
4. *The noise level of outdoor activities shall comply with Title 6, Chapter 12 of the Mesa City Code.*
5. *Compliance with all requirements of the Building Safety Division regarding the issuance of building permits.*

Vote: Passed 5-0

Findings:

- 1.1 The request entails the expansion of an existing wedding reception hall to include an outdoor garden area, where in most cases, ceremonies will be accommodated. While the use is located in a commercial development, there are existing residences located approximately sixty-feet west of the overall development. Such outdoor activities are permitted, subject to the granting of a Special Use Permit. A Special Use Permit may be granted upon finding consistency with the Zoning Ordinance, General Plan, and Council policies and compatibility with neighboring properties.
- 1.2 All property owners within 300-feet and Homeowner's Associations within one-half mile were invited to attend two separate neighborhood meetings; however, there were no attendees at either meeting.
- 1.3 The applicant will limit the type of events that will be facilitated by the outdoor area. Outdoor activities will be mostly private religious wedding reception ceremonies, which will typically occur between the hours of 12:00 pm and 5:00 pm on Friday and Saturday afternoons. In addition, evening weekend events, restricted to Friday and Saturday, would operate from 12:00 pm to 10:00 pm. The outdoor area would be closed on Sundays. As there is no mention of the hours of operation for weekday events (Monday through Thursday), a condition of approval requires weekday events to conclude at 9:00 pm to ensure that the residential neighborhood located west of the development is minimally impacted.

**Board of Adjustment Meeting
July 8, 2008**

- 1.4** Outdoor ceremonies will consist of no more than 100 guests, and outdoor receptions will consist of no more than 150 guests. Most receptions will be held indoors, insuring minimal impact to adjacent properties.
- 1.5** The visual impact of the outdoor area will be minimized with the addition of 24-gallon ficus trees adjacent to the west and north boundaries of the outdoor area. In addition, a foundation base has been provided adjacent to the north and east boundaries of the outdoor area. The proposed landscaping and foundation base will minimize the visual impact, and filter potential noise pollution that could affect surrounding development. An eight-foot high perimeter wall will also be provided around the outdoor area.
- 1.6** Noise level could be a concern to adjacent residences, especially given the close proximity of the proposed outdoor use to existing homes. City Code allows commercial and business uses to have a noise level of 65 decibels (dBA) over a 24-hour period. A condition of approval ensures that the noise level complies with Title 6, Chapter 12 of the Mesa City Code, in regards to offensive, excessive, and prohibited noises. In addition, the stage will be oriented away from residences so they are not negatively impacted by outdoor events.
- 1.7** The General Plan designation for the property is Community Commercial, which is intended to serve the surrounding residential trade area within a ½- to 1-mile radius. Given the size of the parcel (less than 10 acres), its proximity to arterial streets, and the existing uses, the proposed expansion of the wedding reception center is in conformance with the General Plan.
- 1.8** The existing commercial development does not comply with current Code requirements in regards to building and landscape setbacks, foundation base, and parking lot landscape islands. Bringing the site into compliance with all current Code requirements would result in the demolition of buildings, and the creation of additional nonconformities related to parking. As a result, the site does qualify for a Substantial Conformance Improvement Permit.
- 1.9** A parking study has been provided indicating that there is sufficient parking for the overall development. The applicant has indicated which parking area will generally be utilized by patrons, and has offered 4 new landscape islands at the ends of parking rows and 12 parking lot landscape diamonds that would bring the parking lot closer to compliance with current Code. The proposed diamonds will be 25 square feet in area, and will be landscaped to comply with current Code requirements.
- 1.10** Substantial conformance has been achieved with the conversion of parking spaces located near the entry into a landscape area, the addition of a 10-foot wide foundation base adjacent to the outdoor area, an 8-foot high perimeter wall around the outdoor area, and decomposed granite that will cover the remainder of the property to provide dust control.
- 1.11** There are few opportunities to improve the overall commercial development without requiring the consensus of all tenants. As a result, the applicant has proposed improvements associated with the intensification of the requested use that will improve the overall development. The proposed landscape diamonds, foundation base, and landscaping offer increased visual improvement associated with the existing reception center. Further, the proposed outdoor garden area will be developed in accordance with current Code requirements. As a result, the proposed improvements in conjunction with the conditions of approval provide substantial conformance with current standards, and will be compatible with, and not detrimental to, surrounding properties.

**Board of Adjustment Meeting
July 8, 2008**

Respectfully submitted,

Jeffrey McVay, AICP
Senior Planner
Secretary, Board of Adjustment

Minutes written by Brandice Elliott, Planner I

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